IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Second Appeal No. 285 of 2006

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	**Court's or Judge's Orders.**

CORAM : **A.P. Lavande,J**
DATE : 29th September, 2006

Heard Mr. V. M. Deshpande, the learned counsel for the appellant.

2. By this appeal, the appellant takes exception to the Judgment and decree dated 4th March, 2003 passed by the Joint District Judge, Amravati in Regular Civil Appeal No. 136/2000 dismissing the appeal filed at the instance of legal representatives of original plaintiff challenging the Judgment and decree dated 13th April, 2000 passed by the 9th Joint Civil Judge, Junior Division, Amravati in Regular Civil Suit No. 583/1996.

3. Kaususalyabai Gode, the original plaintiff filed the above suit seeking mandatory injunction, possession and damages on the ground that the defendant had made encroachment on the part of the property. The trial Court after appreciating the evidence, oral and documentary, dismissed the suit holding that the plaintiff had not proved her case. The appeal preferred by the original plaintiff was also dismissed by the appellate court confirming the

findings given by the trial Court. The only point urged by Mr. Deshpande in support of the second appeal is that the appellate court erred in law in holding that the map Exh. 58 has not been proved in view of the non-examination of the person who has drawn the map. According to Mr. Deshpande, the said map was drawn by Nimtana (post higher than the Taluka Inspector Land Revenue) and as such according to Mr. Deshpande, the learned lower appellate court has fallen into error in holding that the map Exh. 58 has not been duly proved by plaintiff. I have considered the submissions made by Mr. Deshpande, the learned counsel for the appellant. Even if the submissions made by Mr. Deshpande is accepted, the same does not advance the case of the appellant any further. The copy of the said map has been made available for my perusal and the same discloses that in the said map portion which has been encroached has been shown in blue colour in the map and it has been mentioned that portion has been encroached by the villagers. That being the position, the said map does not advance the case of the plaintiff that it was the defendant who has encroached upon the said portion. Therefore, even if the said map is considered to be proved, the appellant is not entitled to succeed. Therefore, I do not find any substantial question of law involved in the appeal. Hence, the appeal is rejected.

Judge

patle